

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

ROSARIO RUBEN VALDESPINO,

Plaintiff,

v.

No. CV 21-196 CG

KILOLO KIJAKAZI,<sup>1</sup>  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff Rosario Ruben Valdespino's *Amended Unopposed Motion for EAJA Fees* (the "Motion"), (Doc. 26), filed March 16, 2022. In the Motion, Plaintiff indicates the parties have agreed to award Mr. Valdespino attorney fees in the amount of \$8,003.60 and costs of \$402.00. (Doc. 26 at 2). The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, finds the Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Plaintiff be awarded \$8,003.60 in attorney fees and \$402.00 in costs pursuant to EAJA, 28 U.S.C. § 2412, made payable to Plaintiff but mailed to Plaintiff's attorney. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's

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<sup>1</sup> Kilolo Kijakazi was appointed Acting Commissioner of the Social Security Administration on July 9, 2021.

counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE